

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record and considering the arguments of the parties, the Appeals Board finds, for preliminary hearing purposes, as follows:

Jurisdiction to review a preliminary hearing order is granted the Appeals Board when the issue is raised as to whether the claimant's personal injury by accident arose out of and in the course of her employment. See K.S.A. 44-534a(a)(2).

Claimant requests that Dr. Miguel Pirela-Cruz be authorized to perform bilateral carpal tunnel decompression surgery. The Administrative Law Judge granted this request and found claimant's testimony credible. She was a nurse engaged in repetitive activities and had knowledge concerning the development of her symptomatology. Also, claimant developed bilateral carpal tunnel syndrome from overcompensating with her right hand to protect the left.

Respondent argues that the claimant has failed to satisfy her burden of proof that it is more probable than not that her work activities while employed by the respondent resulted in her bilateral carpal tunnel condition. Additionally, respondent contends that medical reports admitted into evidence at the Preliminary Hearing do not relate her bilateral carpal tunnel syndrome to her work.

Claimant testifies that she commenced working as a registered nurse for the City of Wichita Health Department on February 1, 1993. She was required to perform repetitive work activities such as charting and giving injections. She had been a nurse since 1967 and prior to commencing work for the City of Wichita Health Department, she did not have any problems with her hands. While she was giving a young child a shot on April 23, 1993, she was kicked repeatedly in her left hand by the toddler who was wearing hard-soled shoes. Her left hand immediately began to swell and remained swollen for a long period of time. While her left hand was bothering her, she began to protect the left hand by overusing her right hand. Finally her right hand also became symptomatic.

Claimant was treated first at the Wichita Clinic and then saw Dr. James I. Horsley and Dr. S. Sparks at the HCA Wesley Medical Center. An EMG and NCT were performed on November 11, 1993, which revealed bilateral carpal tunnel entrapment neuropathy. After conservative treatment did not alleviate her symptoms, she was referred by her family doctor for treatment with Miguel Pirela-Cruz, M.D., on December 9, 1993. Because the claimant was not responding favorably to conservative treatment, Dr. Pirela-Cruz recommended bilateral carpal tunnel decompression surgery.

For preliminary hearing purposes, the Appeals Board affirms the decision of the Administrative Law Judge that granted claimant's request for medical treatment. The claimant has established through her testimony that she did not have symptomatology in her hands prior to commencing work for respondent and that she thereafter developed the symptomatology which worsened after she was kicked in the left hand on April 23, 1993. The medical records substantiate the diagnosis of bilateral carpal tunnel and the need for corrective surgery.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Shannon S. Krysl, dated September 22, 1994, is affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April, 1995.

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

c: Roger Kidd, Wichita, KS  
Marc Clements, Wichita, KS  
Andrew Busch, Wichita, KS  
Shannon S. Krysl, Administrative Law Judge  
George Gomez, Director